

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHAY SOLENTO IRWIN,

Petitioner,

v.

CASE NO. 07-11821
HONORABLE GEORGE CARAM STEEH

RAYMOND BOOKER,

Respondent.

_____ /

**ORDER DENYING PETITIONER'S MOTION
FOR APPOINTMENT OF APPELLATE COUNSEL**

Petitioner Shay Solento Irwin has appealed this Court's opinion and order denying his habeas corpus petition, but granting in part a certificate of appealability and granting leave to proceed *in forma pauperis* on appeal. Currently pending before the Court is petitioner's motion for appointment of appellate counsel. Petitioner alleges that he is unable to retain counsel due to his poverty and that he needs an experienced appellate attorney to perfect his appeal and to represent him during oral arguments.

The filing of a notice of appeal generally "confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal." *Marrese v. Am. Acad. of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985) (citing *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982) (*per curiam*)). Petitioner filed his notice of appeal on August 11, 2011 and his motion for appointment of counsel on March 26, 2012. Because his case and a nearly identical motion for appointment of counsel are pending in the Court of Appeals, this Court lacks

jurisdiction to address his District Court motion for appointment of counsel. *Murray v. Artl*, 189 F. App'x 501, 504 (7th Cir. 2006) (citing *Wis. Mut. Ins. Co. v. United States*, 441 F.3d 502, 504 (7th Cir. 2006) (quoting *Griggs*, 459 U.S. at 48)). Consequently, his motion for appointment of counsel [dkt. #27] is **DENIED**.

Dated: April 16, 2012

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on April 16, 2012, by electronic and/or ordinary mail and also to Shay Irwin at Handlon Correctional Facility, 1728 Bluewater Highway, Ionia, MI 48846.

S/Josephine Chaffee
Deputy Clerk